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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

ADAM T. HAWN,

Defendant and Appellant.

D048157

(Super. Ct. No. SCE254425)

APPEAL from a judgment of the Superior Court of San Diego County, Charles W. Ervin, Judge. Affirmed.

Adam T. Hawn entered a negotiated guilty plea to inflicting corporal injury on a cohabitant. (Pen. Code, § 273.5, subd. (a).) The court denied a motion to withdraw the guilty plea, suspended imposition of sentence, and placed Hawn on probation for three years, subject to conditions, including a condition he serve 180 days in custody. Hawn

contends the trial court erred by denying his motion to withdraw the guilty plea. The record contains a certificate of probable cause.

### FACTS

According to the probation report, on September 18, 2005, Brenda M. told a sheriff's officer that Hawn, her boyfriend, beat her. Brenda M. stated that in January she had moved into the house Hawn shared with his mother. Several weeks before the incident, Hawn's mother moved out of the house. Brenda M. had been intimate with Hawn for approximately a month. On September 11, 2005, Hawn became jealous when Brenda M. took her car to a male friend for repairs. Hawn began to hit Brenda M. He put a belt around her neck, locked her in the bathroom, and said he was a demon with multiple personalities and was going to kill her. He slept that night with his arm around Brenda M.'s neck. The next morning they engaged in sexual intercourse multiple times. She said she was afraid of Hawn and did not resist. Hawn did not let her leave the house for a week. On September 18, Brenda M. escaped, went to a friend's house, and called police. Brenda M. had bruises on her arms and legs, and an injured eye. Deputies arrested Hawn.

Hawn told deputies that he and his mother had been living with Brenda M. for several weeks, his mother left the house, and he slept with Brenda M. for the past week. They engaged in sex, but he denied beating her.

### DISCUSSION

Hawn argues the trial court erred by denying his motion to withdraw the guilty plea because (1) he did not have adequate time to discuss the guilty plea with his attorney

before he entered the plea, (2) it was entered under duress based on a claim the People could add a kidnapping charge to the complaint, and (3) the victim's claim was bizarre.

Courts may permit withdrawal of a guilty plea on a showing of good cause. (Pen. Code, § 1018.) Good cause is shown where the plea was entered as a result of mistake, ignorance, inadvertence, or overreaching. (*People v. Urfer* (1979) 94 Cal.App.3d 887, 892.) At a hearing on the motion, Hawn's attorney testified that he met with Hawn three or four times on the day Hawn entered the guilty plea. He explained the case to Hawn and that it was Hawn's decision to enter the plea bargain. When Hawn entered the guilty plea he told the court he had spoken with his attorney and did not need additional time to consider the matter.

It appears questionable there was a reasonable possibility the People would amend the complaint to add a kidnapping charge, but could reasonably amend the complaint to add rape charges. Although Hawn believes Brenda M.'s story is bizarre and he maintains his innocence of inflicting corporal injury on a cohabitant, he admits he was living with and having sexual relations with her, making her a cohabitant. Brenda M. initially told deputies that Hawn repeatedly beat her. She recanted before the motion to withdraw the guilty plea but the court was not required to accept the recantation. Here, after hearing evidence at a hearing on the motion to withdraw the guilty plea, the court denied the motion because when Hawn entered the guilty plea he stated he was doing so freely and voluntarily, and he specifically admitted inflicting traumatic corporal injury on Brenda M. The court found Hawn had not shown that he entered the guilty plea because of duress.

DISPOSITION

The judgment is affirmed.

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McDONALD, Acting P. J.

I CONCUR:

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McINTYRE, J.

I CONCUR IN THE RESULT:

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IRION, J.